

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Address
Natural Gas Distribution Utility Cost and
Revenue Issues Associated with
Greenhouse Gas Emissions.

FILED
PUBLIC UTILITIES COMMISSION
MARCH 13, 2014
SAN FRANCISCO, CALIFORNIA
RULEMAKING 14-03-003

ORDER INSTITUTING RULEMAKING

TABLE OF CONTENTS

<u>Title</u>	<u>Page</u>
ORDER INSTITUTING RULEMAKING	1
1. Summary	2
2. Background.....	4
2.1. Background on Greenhouse Gas Cap-and-Trade Program	4
2.2. Proposed Amendments to ARB’s Cap-and-Trade Regulation	6
2.3. Commission Policy and Precedent	7
2.3.1. Use of GHG Allowance Revenue	8
2.3.2. Procurement Rules.....	10
2.4. Utility Authority to Track and Record Cap-and-Trade Costs	12
2.4.1. Pacific Gas and Electric	13
2.4.2. Sempra.....	13
2.4.3. Southwest Gas	14
2.4.4. West Coast Gas and Alpine Natural Gas	15
2.5. Process to Review and Approve Cap-and-Trade Compliance Costs	15
3. Preliminary Scoping Memo.....	15
3.1. Issues	17
3.2. Category and Need for Hearing	20
4. Preliminary Schedule	21
5. PHC and PHC Statements (Comments on OIR)	21
6. Respondents	22
7. Service of OIR, Creation of Service List, and Subscription Service	22
7.1. During the First 20 Days	24
7.2. After the First 20 Days	25
7.3. Updating Information.....	25
7.4. Serving and Filing Documents	25
7.5. Subscription Service.....	26
8. Public Advisor.....	26
9. Intervenor Compensation.....	26
10. <i>Ex parte</i> Communications	26

ORDER INSTITUTING RULEMAKING

1. Summary

The Commission opens this rulemaking to establish the policy, programs, rules and tariffs necessary for natural gas investor-owned utilities (natural gas corporations) to comply with the California Air Resources Board's (ARB) Greenhouse Gas (GHG) Cap-and-Trade Program. Due to the significant differences between electric and natural gas corporations, it is best to consider these issues in a separate rulemaking rather than with electric corporations in Rulemaking 11-03-012, as the Commission initially contemplated.

Our primary focus will be on the following issues: the treatment of GHG Cap-and-Trade compliance costs that natural gas corporations may incur if they are found to have a compliance obligation¹ under the Cap-and-Trade regulation; rules to govern utility procurement of Cap-and-Trade compliance instruments; special considerations facing natural gas end-use customers that also have a compliance obligation under ARB's Cap-and-Trade regulation; the use of revenues that natural gas corporations may receive if ARB allocates allowances to utilities for ratepayer benefit; and policies concerning the treatment of emissions-intensive and trade-exposed entities that are customers of natural gas corporations. This rulemaking will also consider natural gas corporations' forecasts of GHG Cap-and-Trade-related costs expected to be incurred in 2015,

¹ Entities having a compliance obligation under the Cap-and-Trade regulation are responsible for possessing and ultimately surrendering appropriate compliance instruments (either GHG allowances or offsets) to account for their annual GHG emissions.

and it will consider the potential need, scope and administrative structure of outreach and education activities targeted to natural gas customers about state efforts to mitigate climate change and Commission policy on any Cap-and-Trade-related costs and revenues.

The Commission notes that ARB has announced that it will consider at its April 2014 board meeting a number of proposed changes to its GHG Cap-and-Trade Regulation and its Mandatory Reporting Regulation that may affect natural gas corporations regulated by this Commission. Nevertheless, we are opening this rulemaking at this time to ensure that this Commission is prepared to address the issues within our jurisdiction according to a timeline that will provide natural gas corporations with regulatory guidance well before they are formally included within the GHG Cap-and-Trade Program, which will commence on January 1, 2015. To the extent ARB modifies its regulations, the scope and schedule of this rulemaking may also change.

At this juncture, we invite prehearing conference statements from interested parties and require them of respondents addressing the issues set forth in the preliminary scope proposed herein, as well as the priorities, structure, and schedule for this proceeding. Prehearing conference statements are due on April 10, 2014; replies to prehearing conference statements are due on April 17, 2014. A prehearing conference is scheduled for April 29, 2014 before the assigned Administrative Law Judge.

2. Background

2.1. Background on Greenhouse Gas Cap-and-Trade Program

The Global Warming Solutions Act of 2006 (Assembly Bill (AB) 32)² granted the California Air Resources Board (ARB) broad authority to regulate Greenhouse Gas (GHG) emissions to reach the goal of having GHG emissions in 2020 be no higher than the 1990 level. In response to AB 32, ARB established an economy-wide cap on major sources of GHG emissions, including large point-source emitters, electricity deliverers and fuel suppliers, and created a market-based mechanism to encourage organizations and individuals to make efficient decisions about how to reduce emissions. ARB adopted this regulation, called the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms³ (Cap-and-Trade Program or Program), in December 2011, and the regulation became effective on January 1, 2012. ARB phased in the reach of compliance obligations under the Cap-and-Trade Program. Those subject to a compliance obligation are deemed “covered entities.”

Beginning on January 1, 2013, the Cap-and-Trade Program covered operators of facilities that annually emit at least 25,000 metric tons of carbon dioxide equivalent gas (MTCO₂e) as well as first deliverers of electricity. Natural gas suppliers become covered entities beginning on January 1, 2015, and their compliance obligation is equal to the GHG emissions that would result from full combustion or oxidation of the natural gas they deliver to California end-use customers, less the emissions from natural gas delivered to entities that are

² Statutes of 2006, Chapter 488.

³ Title 17, California Code of Regulations, Sections 95801-96022.

separately regulated as covered entities.⁴ Like all covered entities, natural gas suppliers must fulfill their compliance obligations under the Cap-and-Trade Program by surrendering to ARB an amount of compliance instruments – emission allowances and offsets – equal to their regulated emissions during each compliance period. The first compliance period includes the years 2013 and 2014 (during which time natural gas suppliers have no compliance obligation); the second compliance period includes 2015 through 2017; and the third compliance period includes 2018 through 2020.

ARB's regulation, and amendments currently under consideration, would create new procurement costs for natural gas corporations under the Commission's jurisdiction that could affect gas rates. Gas utilities have two potential sources of Cap-and-Trade-related costs: as regulated natural gas suppliers that deliver gas to California end-users, and as owners and operators of facilities that directly emit at least 25,000 MTCO_{2e} per year and are covered entities under the Cap-and-Trade regulation. Some natural gas corporations own and operate compression stations that ARB currently regulates as covered entities. Others may operate compression stations that currently fall below the 25,000 MTCO_{2e} emissions threshold but that may, at a later date, exceed this threshold, and therefore become covered entities. Thus, when the Commission considers Cap-and-Trade-related costs that natural gas corporations experience, we must consider their dual costs as gas suppliers and as owners of covered facilities.

⁴ Cap-and-Trade Regulation § 95852(c).

2.2. Proposed Amendments to ARB's Cap-and-Trade Regulation

ARB has proposed draft amendments to the Cap-and-Trade Program regulations that would significantly change how natural gas suppliers are regulated.⁵ Similar to ARB's treatment of electric utilities, ARB proposes to allocate allowances to natural gas suppliers to protect natural gas ratepayers. Each year a natural gas supplier would receive an amount of allowances equal to its total compliance obligation based on 2011 emissions, multiplied by an adjustment factor that represents the decline of the overall emissions cap. For example, in 2015, each natural gas supplier would receive an amount of allowances representing 98.1% of its 2011 emissions, and in 2020 it would receive an amount of allowances representing 85.1% of its 2011 emissions.⁶ ARB further proposes that each natural gas supplier should be required to consign at a minimum 25% of these allowances to auction in 2015, and that this minimum consignment should increase 5% annually. The utilities would have discretion to specify, and this Commission the authority to require, more than the minimum 25% to be consigned to auction. Natural gas corporations would be required to use all remaining allowances to comply with their compliance obligation – the allowances must be retired for future compliance. Any freely allocated allowances retired for compliance will have the effect of directly reducing the gas

⁵ The most current version of these amendments are ARB's January 31, 2014, 15-Day Discussion Draft, available at <http://www.arb.ca.gov/cc/capandtrade/cap-trade-15-day-discussion-draft-01-31-14.docx>. ARB is scheduled to consider these revisions at its April 2014 board meeting.

⁶ See proposed Cap-and-Trade Regulation § 95893 – Allocation to Natural Gas Suppliers for Protection of Natural Gas Ratepayers.

corporation's cost of Cap-and-Trade compliance and by extension will also limit the presence of GHG pollution-abatement costs in natural gas rates.

Allowances consigned to auction will generate revenue, which ARB proposes must be used exclusively for the benefit of the retail ratepayers of each natural gas supplier, consistent with the goals of AB 32. ARB additionally proposes that any revenue returned to ratepayers must be distributed in a non-volumetric manner (i.e., the revenues should not dampen price signals in rates). As with similar revenue generated by electric utilities, ARB proposes that the use of allowance revenues received by natural gas corporations be subject to limitations imposed by this Commission.

2.3. Commission Policy and Precedent

The Commission opened Rulemaking (R.) 11-03-012 in 2011, before ARB had adopted its GHG Cap-and-Trade regulations, to consider cost and revenue issues associated with GHG emissions. Track 1 of the rulemaking addressed broad issues related to how GHG allowance revenues received by electric utilities should be used. Track 2 is ongoing, and it addresses the use of revenues from the sale of Low Carbon Fuel Standard Credits. Track 3 of the rulemaking was slated to address GHG procurement cost and revenue issues related to natural gas corporations – issues that this new rulemaking will now consider.

Simultaneous with the rulemaking, the Commission's Long-Term Procurement Planning (LTPP) Proceeding (R.10-05-006) considered issues related to the types of Cap-and-Trade compliance instruments the electricity utilities should be authorized to buy, how and where the electric utilities should buy compliance instruments, and what quantities of compliance instruments they should buy.

2.3.1. Use of GHG Allowance Revenue

Decision (D.) 12-12-033 created the policy framework governing how electric utilities should use GHG allowance revenue (Track 1 of R.11-03-012), and it established four primary policy objectives to help frame the Commission's priorities.

1) Preserve the Carbon Price Signal

The Commission concluded that the presence of a carbon price signal in electricity rates is a foundational element of the Cap-and-Trade Program: "the Cap-and-Trade regulation is designed to have a twofold impact in the electricity sector: it internalizes the cost of emitting GHG in wholesale electricity prices, thus encouraging the development and dispatch of lower-GHG-emitting electricity generators; and it simultaneously internalizes the cost of emitting GHG into retail electricity rates...Carbon pricing creates an economic incentive for market actors – whether wholesale generators or retail ratepayers to find the most efficient ways to reduce GHG emissions."⁷ Based on this rationale, which the Commission explains at length, the Commission decided that it is not "reasonable or consistent with the intent of AB 32 to return allowance revenue in a manner that would mute or otherwise obscure the carbon price signal"⁸ in electricity rates.

2) Prevent Economic and Emissions Leakage

The Commission concluded that it is a high priority to prevent economic and emissions leakage.⁹ Leakage is the risk that the presence of GHG costs in California could cause some industrial production costs to increase relative to jurisdictions that do not have comparable regulations, which may lead to a shift in the production of goods to jurisdictions that lack GHG costs. Emissions reductions

⁷ D.12-12-033 at 60.

⁸ *Id.* at 64.

⁹ D.12-12-033 at Conclusion of Law (COL) 8.

in California resulting from this shift in production would simply increase emissions elsewhere.

To address leakage risk caused by the presence of GHG costs in electricity rates, the Commission, pursuant to Public Utilities Code Section 748.5 allocated revenue to “emissions-intensive and trade-exposed” (EITE) entities – i.e., those that ARB had identified as posing a leakage risk.¹⁰ Separately, the Commission established a process in D.14-02-003 to conduct a study to identify whether additional industries should be classified as EITE.

3) Reduce Adverse Outcomes on Low-Income Households

Consistent with general Commission policy, D.12-12-033 reiterated that it is a high priority objective to reduce adverse outcomes to low-income households.¹¹ The Commission addresses this objective through existing California Alternate Rates for Energy (CARE) rates available to low-income households and also through the issuance of the California Climate Credit, a distribution of allowance revenue returned semi-annually to residential ratepayers.¹²

4) Maintain Competitive Neutrality

The Commission decided that it is a high priority to distribute allowance revenue in a manner that does not place electricity load-serving entities at a competitive disadvantage compared to the utilities that the Commission directly regulates.¹³ The natural gas market is structured differently, but there are similar competitive neutrality issues between regulated gas corporations that both purchase and deliver gas to end-use customers and those companies that purchase natural gas but rely on regulated gas corporations to deliver gas to customers on their behalf.

¹⁰ *Id.* at Ordering Paragraph at (OP) 1.

¹¹ *Id.* at COL 8.

¹² D.12-12-033 at 66-67; OP 1.

¹³ D.12-12-033 at COL 8.

Based on these policy objectives and additional guidance provided by the California Legislature,¹⁴ the Commission decided that electricity rates should, in general, reflect a carbon price signal.¹⁵ The Commission granted revenue to EITs (non-volumetrically, based on formulas adopted by ARB), small businesses (volumetrically on a declining basis), and residential customers (as a non-volumetric semi-annual bill credit and also as a temporary volumetric rate offset to the three large electric investor-owned utilities due to statutory ratemaking constraints that have since been modified). The Commission also authorized the utilities to use revenue for outreach and administrative costs.

The Commission opted not to allocate revenue for specific energy efficiency or clean energy programs at the time because it was a higher priority to protect ratepayers and also because the appropriate venue for considering funding proposals is within the proceedings that specifically address budgets and programs for energy efficiency and clean energy.

2.3.2. Procurement Rules

The Commission's LTPP System Track I and Rules Track III D.12-04-046 established rules about how the electric utilities should procure GHG Cap-and-Trade compliance instruments, but the proceeding does not address issues specific to natural gas corporations. D.12-04-046 examined the types of compliance instruments the electric utilities are authorized to procure, how and where the electric utilities can procure compliance instruments, and what

¹⁴ Public Utilities Code Section 748.5, created by Senate Bill 1018 of 2012, applicable to electric utilities.

¹⁵ D.12-12-033 at 59-65; COL 8.

quantities of compliance instruments the utilities may procure. D.12-04-046 authorized the electric utilities to procure GHG allowances to meet their compliance obligations under the Cap-and-Trade Program. It also authorized electric utilities to purchase offsets that fit within ARB-approved offset protocols in amounts up to 8% of their compliance requirement (in accord with ARB's procurement limits and others set by the Commission); however, it required that offsets be ARB-certified and that sellers, rather than electric utilities, should assume the risk that ARB could invalidate the offsets at a later date.¹⁶

D.12-04-046 prohibited the electric utilities from purchasing options, swaps or derivative products due to concerns about risk and the maturity of the market.¹⁷ Permissible ways to purchase allowances include ARB-run auctions, competitive solicitations subject to consultation with procurement review groups (PRGs), and from Commission-approved exchanges.¹⁸ Finally, the decision approved a formula to establish maximum levels of GHG allowances and offsets that electric utilities can procure in any given year (in setting minimum procurement rules, the Commission deferred to ARB's rules that covered entities annually surrender compliance instruments equivalent to at least 30% of their annual compliance obligation). This maximum procurement limit is based on forecasts of direct compliance obligations and indirect financial exposure.¹⁹ Electric utilities were required to file a procurement plan and to give quarterly

¹⁶ D.12-04-046 at OP 8.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ These formulas are explained in D.12-04-046 Appendix 1.

GHG compliance procurement updates to their respective PRG meetings. Electric utilities are allowed to update their plan and procurement limits via Tier 2 advice letters.²⁰

In the Commission's current LTPP proceeding (R.12-03-014), a proposed decision issued on January 28, 2014 declined to revise GHG compliance instrument procurement rules.²¹

2.4. Utility Authority to Track and Record Cap-and-Trade Costs

The Commission regulates a range of natural gas corporations, some of which may be regulated as natural gas suppliers under ARB's Cap-and-Trade regulation or as owners and operators of highly-emissive facilities (e.g., compressor stations) that are central to its operations as a natural gas corporation. To date, ARB has not designated individual gas corporations as having a compliance obligation under the Cap-and-Trade regulation; however, in some cases, the Commission has taken action to ensure that necessary balancing accounts and other provisions are in place should ARB order compliance with the Cap-and-Trade regulation. The Commission has already granted some corporations authority to track and recover GHG Cap-and-Trade-related costs, but this authority has not, to date, been comprehensive.

The Commission granted initial authority to create memorandum accounts for the purpose of recording AB 32 implementation fees to the four major natural

²⁰ D.12-04-046 at OP 9.

²¹ Proposed Decision Modifying Long-Term Procurement Planning Rules at 10; COL 1; available at <http://docs.cpuc.ca.gov/PublishedDocs/Efile/G000/M086/K120/86120325.PDF>.

gas corporations – Pacific Gas and Electric Company (PG&E), Southern California Gas Company (SoCalGas), San Diego Gas & Electric Company (SDG&E), and Southwest Gas – in D.10-12-026, with recovery of these costs later authorized in D.12-10-044.²²

2.4.1. Pacific Gas and Electric

In addition to its Cap-and-Trade obligation as a natural gas supplier, PG&E also has six compressor stations that annually emit more than 25,000 MTCO₂e. D.13-03-017 granted PG&E's application for compliance cost recovery for these stations. The decision granted PG&E authority to recover its forecasted compliance costs for the compressor stations and to later reconcile these costs with the actual compliance costs as recorded by PG&E's Gas Operational Balancing Account (GOBA). The difference between the forecasted compliance costs and those recorded in the GOBA are to be trued up via PG&E's Annual Gas True-Up Advice Letters.²³

As part of its Bundled Procurement Plan, PG&E has in place a GHG Conformed Procurement Plan which governs how it procures GHG allowances for its obligations as an electric utility. The GHG Conformed Procurement Plan does not currently incorporate rules on procurement of GHG allowances for natural gas end users.

2.4.2. Sempra

Both SoCalGas and SDG&E were granted authority to create blanket balancing accounts in the 2012 Sempra General Rate Case (GRC), specifically in

²² See Interim order of D.10-12-006 and D.12-10-044 at OP 1.

²³ D.13-03-017 at OP 6.

D.13-05-010. The blanket balancing accounts are both called the New Environmental Regulation Balancing Account (NERBA). The NERBA contains four different subaccounts, three of which record costs associated with AB 32, including potential costs associated with owning and operating covered compression stations and operating as a natural gas supplier.²⁴ The Sempra utilities' potential costs of complying with these obligations are recorded in the C&T Facilities Allowance Purchases Subaccount and the C&T End User's Subaccount,²⁵ respectively.

The Sempra utilities currently procure allowances to offset their obligations as operators of compressor stations. The cost of these allowances is amortized annually, per the provisions of D.13-05-010.²⁶ Though neither of the Sempra utilities has begun procuring allowances for their obligations as natural gas suppliers, both anticipate doing so before the end of 2014. While SDG&E has an established GHG/AB 32 Compliance Plan for the electricity side of its operations as part of its electric Bundled Procurement Plan, SoCalGas does not have any rules currently in place governing procurement of GHG allowances.

2.4.3. Southwest Gas

Southwest Gas may incur a compliance obligation as a natural gas supplier, if determined by ARB, but does not own or operate any compressor

²⁴ See Sheet 1 of SoCalGas's Preliminary Statement – Part V – Balancing Accounts: NERBA; see also Sheet 2 of SDG&E's Preliminary Statement – Part IV – Balancing Accounts: NERBA.

²⁵ See Sheet 2 of both SDG&E and SoCalGas' NERBA tariff papers.

²⁶ See page 3 of approved SDG&E AL 2496-E/2205-G; see also page 2 of approved SoCalGas AL 4507-G.

stations or other facilities in California which create an obligation under the Cap-and-Trade Program. Southwest Gas currently has no mechanism in place to record or recover the costs of compliance for their natural gas supplier obligation.

2.4.4. West Coast Gas and Alpine Natural Gas

West Coast Gas and Alpine Natural Gas are small gas utilities that currently have no mechanisms in place to record or recover potential costs associated with Cap-and-Trade compliance. West Coast Gas and Alpine Natural Gas have service territories and customer bases significantly smaller than the large four gas utilities.

2.5. Process to Review and Approve Cap-and-Trade Compliance Costs

The Commission's decision on allowance revenues from electric utilities established a process for each electricity utility to annually forecast Cap-and-Trade-related costs for recovery in rates. D.12-12-033 required each utility to file an annual application to forecast GHG costs and to reconcile differences between actual costs and forecasts.²⁷ These forecasts will be the basis for Commission-approved rate changes. To date, there is no similar process for the Commission to review and approve Cap-and-Trade-related cost forecasts for natural gas utilities on an ongoing basis, nor has the Commission clarified what information it would need to perform this review.

3. Preliminary Scoping Memo

The scope of this OIR is to adopt:

²⁷ D.12-12-033 at OP 23.

1. Orders directing how each natural gas corporation, if deemed by ARB to have a Cap-and-Trade regulation compliance obligation, should track and recover costs associated with Cap-and-Trade compliance.
2. Rules and limits governing how natural gas corporations, if deemed by ARB to have a compliance obligation, should procure Cap-and-Trade compliance instruments.
3. Rules governing the use of potential revenue resulting from the sale of allowances that ARB may allocate to natural gas corporations on behalf of ratepayers.
4. Forecasts of natural gas corporations' 2015 Cap-and-Trade-related costs.
5. Conclusions about the potential need, scope and administrative structure of outreach and education activities related to the impacts of the Cap-and-Trade Program on natural gas end-use customers.

The scope of this proceeding broadly includes all issues related to implementation of the GHG Cap-and-Trade Program for natural gas corporations. With this scope in mind, we preliminarily determine the category, need for hearing and other elements of the preliminary scoping memo (Rule 7.1(d) of the Commission's Rules of Practice and Procedure (Rules).

This Order Instituting Rulemaking (OIR) provides an official forum to consider evidence and argument on the issues. Gas investor-owned utilities and the public are placed on notice that the evidence and argument taken in this proceeding will be the basis for findings, conclusions and Commission orders, with due deference given to policy precedent established in previous Commission decisions about electric utility participation in the Cap-and-Trade Program.

The Commission recognizes that ARB is currently planning to consider a range of proposed Cap-and-Trade Regulation amendments at its April 2014

board meeting, some of which will affect entities regulated as natural gas suppliers. We will proceed with this rulemaking while recognizing that adjustments may be needed as ARB's process unfolds.

We intend for the scope of this rulemaking to be broad, and we accordingly grant the assigned Commissioner and assigned Administrative Law Judge (ALJ) discretion to revise the scope to include other relevant GHG Cap-and-Trade-related issues that may affect natural gas corporations and natural gas end-use customers.

3.1. Issues

In this rulemaking, we preliminarily identify the following issues:

1. Cost Recovery:

- a. How should the natural gas corporations track and record costs directly incurred to comply with the GHG Cap-and-Trade Program, either as a natural gas supplier or as an owner and operator of gas compression stations that may be regulated under Cap-and-Trade as Covered Entities?
- b. How should costs related to Cap-and-Trade regulations be allocated between core and non-core gas customers?
- c. What existing authority does each natural gas corporation have to track and record costs related to Cap-and-Trade regulations, and what new authority is needed?

2. Purchasing Rules:

- a. Do natural gas corporations have appropriate existing authority to procure Cap-and-Trade compliance instruments, including allowances and offsets, as defined by ARB?
- b. What rules and limits should govern how natural gas corporations acquire Cap-and-Trade compliance instruments?

- c. Should these rules and limits governing acquisition of compliance instruments for natural gas corporations mirror those adopted in D.12-04-046 for electric utilities?
- d. Should these rules apply equally to each natural gas corporation, or should the Commission apply different rules depending on the size of the utility and whether it is an integrated electric and gas utility?

3. Cost Forecasts and Rate Design

- a. What methodology, and what procedural mechanism, should the natural gas corporations use to forecast annual Cap-and-Trade-related costs and potential allowance revenues?
 - i. Can the natural gas corporations rely on public, non-confidential data to report forecasts publicly without violating ARB confidentiality rules that prevent disclosure of market sensitive information?
- b. What tariff changes, if any, are necessary to include GHG costs in rates?
- c. Natural gas corporations may have end-use customers that are large emitters due to their on-site combustion of natural gas or other fuels and that ARB regulates as covered entities. What steps should the corporations and the Commission take to ensure that these customers are not double charged for their GHG emissions? For example, such customers would pay for emissions directly through their requirement to comply with ARB's Cap-and-Trade regulations, which cover emissions from on-site natural gas combustion, and they could also pay indirectly if their natural gas rates were to include GHG costs passed on from utilities to end-use customers.
- d. Should each natural gas corporation annually publish the Cap-and-Trade-related costs that may be present in natural gas rates, and can natural gas corporations publish such costs without violating ARB confidentiality rules regarding disclosure of market sensitive information?

- e. Does the Commission need to consider how to maintain competitive neutrality when deciding how natural gas utilities should address Cap-and-Trade-related costs and revenues? How can the Commission implement rules in a manner that treats Commission-regulated gas distribution utilities and non-regulated gas suppliers fairly?
- f. Should Cap-and-Trade-related costs be temporarily deferred from rates if the Commission has not resolved necessary cost and revenue implementation details before January 1, 2015?

4. Uses of Revenues

- a. If ARB adopts Cap-and-Trade regulation amendments that require natural gas corporations to consign a minimum percentage of allowances to auction, but ARB allows the Commission discretion to require higher levels of consignment, what percentage of the allowances allocated for ratepayer protection should the Commission require the natural gas corporations to consign to auction? Should the Commission endorse the ARB minimum or adopt a higher standard?
- b. Is there reason to deviate from Commission policy established in D.12-12-033 that revenues that accrue from the auctioning of GHG allowances should be returned to customers in a manner that does not dampen the carbon price signal?
- c. If ARB grants natural gas corporations allowances on behalf of their ratepayers, what customer classes should receive the revenues that result from the auctioning of these allowances and why? Should these revenues be distributed in a manner similar to that in D.12-12-033?

5. Outreach and Education Activities

- a. If the Commission returns allowance revenue to natural gas end-use customers, should the Commission initiate outreach and education efforts to increase customer awareness of state efforts to address climate change and allowance revenue credits that may appear on their bills?

- i. If so, should such efforts leverage the same administrative structure and objectives ultimately adopted in Application (A.) 13-08-026, et al, the applications addressing GHG customer outreach activities for the electric utilities?

6. Safety Concerns

- a. Pursuant to Public Utilities Code Section 451, we seek comment from parties and direct the respondents to specifically identify and describe safety concerns related to the issues identified in this proceeding.

3.2. Category and Need for Hearing

Rule 7.1(d) provides that the OIR “shall preliminarily determine the category and need for hearing...”²⁸ This rulemaking is preliminarily determined to be ratesetting, as that term is defined in Rule 1.3(e). This preliminary determination is not appealable, but shall be confirmed or changed by assigned Commissioner’s ruling. The assigned Commissioner’s determination as to category is subject to appeal pursuant to Rules 7.3 and 7.6.

We anticipate that the issues in this proceeding may be resolved through a combination of filed comments, workshops and testimony, and that evidentiary hearings will not be necessary. Any person who objects to the preliminary hearing determination shall state the objections in their Prehearing Conference (PHC) Statements. The assigned Commissioner will determine the need for hearing in the Scoping Ruling issued following a PHC.

²⁸ All rules cited are contained in the Commission’s Rules of Practice and Procedure.

4. Preliminary Schedule

The preliminary schedule for this proceeding is set forth below and includes the provisions for the filing of PHC statements and a PHC. The assigned Commissioner or ALJ may change the schedule and scope as necessary to provide full and fair development of the record. Consistent with Public Utilities Code Section 1701.5, we expect this proceeding to be concluded within 18 months of the date of the scoping memo.

Item	Date
Request to Process Office for inclusion on service list	20 days from issuance of OIR
PHC Statements filed and served	April 10, 2014
Replies to PHC Statements filed and served	April 17, 2014
PHC	April 29, 2014

5. PHC and PHC Statements (Comments on OIR)

Notice is hereby given that a PHC is set for April 29, 2014 before the assigned ALJ in this proceeding. The PHC will be held at the Commission Courtroom, State Office Building, 505 Van Ness Avenue, San Francisco, California. A PHC is called to determine the parties, positions of the parties, issues, and other procedural matters.

To facilitate these discussions, parties may, and respondents must, file PHC Statements addressing the scope and schedule of this proceeding, need for hearing, and other procedural issues no later than April 10, 2014. Respondents must, and parties may, provide preliminary responses and appropriate information to address each of the issues set forth in Section 3.2 of this OIR. PHC Statements should also address the appropriate priority the Commission should place on resolving each of the issues set forth in the scope as well as the most

appropriate procedural mechanisms to resolve issues efficiently and expediently (via phases, etc.). Replies to PHC Statements are due no later than April 17, 2014.

6. Respondents

Each California gas corporation under the Commission's jurisdiction is a respondent to this Rulemaking and is placed on notice that it shall be subject to Commission orders in this matter.

7. Service of OIR, Creation of Service List, and Subscription Service

We will serve this OIR on the service lists (appearances, state service list, and information-only category) in the following proceedings:

- R.11-03-012 (Order Instituting Rulemaking to Address Utility Cost and Revenue Issues Associated with Greenhouse Gas Emissions)
- R.12-03-014 (Order Instituting Rulemaking to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans)
- A.13-08-002, et al. (Consolidated Proceeding on Electric Utilities' GHG Cost and Revenue Forecast Applications)
- A.13-08-026, et al. (Consolidated Proceeding on Electric Utilities' Long-Term GHG Outreach and Education Activities)
- A.13-09-015 (PG&E GHG Natural Gas Cost Recovery Application)
- A.12-11-009 (PG&E 2014 GRC)
- A.13-11-003 (Southern California Edison Company GRC)
- A.10-12-005/006 (SoCalGas/SDG&E GRC)
- A.12-12-024 (Southwest Gas GRC)
- A.14-01-011 (West Coast Gas Application for GHG memorandum account)
- A.13-12-012 (PG&E Gas Transmission and Storage Proceeding)

Such service of the OIR does not confer party status in this proceeding upon any person or entity, and does not result in that person or entity being placed on the service list for this proceeding.

The Commission will create an official service list for this proceeding, which will be available at http://www.cpuc.ca.gov/published/service_lists. We anticipate that the official service list will be posted before the first filing deadline in this proceeding. Before serving documents at any time during this proceeding, parties shall ensure they are using the most up-to-date official service list by checking the Commission's website prior to each service date.

The respondents are parties to this rulemaking. Persons who are or become parties to this proceeding will automatically be added to the "Parties" category of the official service list. Only one representative will be listed in the "Parties" category for each person or entity. Additional representatives will be added as "Information Only."

Any person will be added to the "Information Only" category of the official service list upon request to the Process Office. Persons must provide an e-mail address in order to receive service of documents that are not required to be served by hard copy. (See Rule 1.10(b).)

If you want to participate in the Rulemaking or simply to monitor it, follow the procedures set forth below. To ensure you receive all documents, send your request within 20 days after the OIR is published. The Commission's Process Office will update the official service list on the Commission's website as necessary.

Any member of employee of the Commission, State Legislature, or other State office or agency will be added to the "State Service" category of the official service list upon request to the Process Office. Any such person who declines to

provide an e-mail address will receive hard copy service of all documents. (See Rule 1.10(b).)

7.1. During the First 20 Days

Within 20 days of the publication of this OIR, any person may ask to be added to the official service list. Send your request to the Process Office. Persons may use e-mail (Process_Office@cpuc.ca.gov) or letter (Process Office, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102).

Include the following information:

- Docket Number of this Rulemaking;
- Name (and party represented, if applicable);
- Postal Address;
- Telephone Number;
- E-mail Address; and
- Desired Status (Party, State Service, or Information Only).²⁹

Upon receipt of your information, the Process Office will place your name on the official service list posted on the Commission's website as soon as practicable. It is the responsibility of each person or entity on the official service list to ensure that its designated person for service, mailing address and/or e-mail address shown on the official service list are current and accurate.

²⁹ If you want to file comments or otherwise actively participate, choose "Party" status. If you do not want to actively participate but want to follow events and filings as they occur, choose "State Service" status if you are an employee of the State of California; otherwise, choose "Information Only" status.

7.2. After the First 20 Days

Persons wanting to become a party after the first 20 days may do so by filing and serving a PHC Statement, or by making an oral motion (Rule 1.4(a)(3)), or by filing a motion (Rule 1.4(a)(4)). Persons making an oral motion or filing a motion must also comply with Rule 1.4(b). These rules are in the Commission's Rules of Practice and Procedure, which can be found at the Commission's website.

7.3. Updating Information

Once you are on the official service list, you must ensure that the information you have provided is up-to-date. To change your postal address, telephone number, e-mail address, or the name of your representative, send the change to the Process Office by letter or e-mail, and send a copy to everyone on the official service list.

7.4. Serving and Filing Documents

When you serve a document, use the official service list published at the Commission's website as of the date of service. You must comply with Rules 1.9 and 1.10 when you serve a document to be filed with the Commission's Docket Office.

The Commission encourages electronic filing and e-mail service in this Rulemaking. You may find information about electronic filing at <http://www.cpuc.ca.gov/PUC/efiling>. E-mail service is governed by Rule 1.10. If you use e-mail service, you must also provide an electronic copy to the assigned Commissioner and a paper copy to the assigned ALJ. The electronic copy should be in Microsoft Word or Excel formats to the extent possible. The paper copy should be double-sided. E-mail service of documents must occur no later than 5:00 p.m. on the date that service is scheduled to occur.

If you have questions about the Commission's filing and service procedures, contact the Docket Office (docket_office@cpuc.ca.gov).

7.5. Subscription Service

This proceeding can also be monitored by subscribing in order to receive electronic copies of documents in this proceeding that are published on the Commission's website. There is no need to be on the service list in order to use the subscription service. Instructions for enrolling in the subscription service are available on the Commission's website at <http://subscribecpuc.cpuc.ca.gov/>.

8. Public Advisor

Any person or entity interested in participating in this Rulemaking who is unfamiliar with the Commission's procedures should contact the Commission's Public Advisor in San Francisco at (415) 703-2074 or (866) 849-8390 or e-mail public.advisor@cpuc.ca.gov; or in Los Angeles at (213) 576-7055 or (866) 849-8391, or e-mail public.advisor.la@cpuc.ca.gov. The TYY number is (866) 836-7825.

9. Intervenor Compensation

Any party that expects to claim intervenor compensation for its participation in this Rulemaking shall file its notice of intent to claim intervenor compensation no later than 30 days after the first PHC or pursuant to a date set forth in a later ruling which may be issued by the assigned Commissioner or assigned ALJ.

10. Ex parte Communications

Pursuant to Rule 8.3(c), *ex parte* communications will be allowed in this ratesetting proceeding subject to the restrictions in Rule 8.3(c) and the reporting requirements in Rule 8.4.

Therefore, **IT IS ORDERED** that:

1. The Commission hereby institutes this rulemaking to address the policy, programs, rules and tariffs necessary for natural gas corporations to comply with the California Air Resources Board's Greenhouse Gas Cap-and-Trade Program.

2. Each California gas corporation under the Commission's jurisdiction is a respondent to this Rulemaking and is placed on notice that it shall be subject to Commission orders in this matter.

3. The preliminary scope and schedule are as stated in the body of this order. The assigned Commissioner or assigned Administrative Law Judge may adjust the schedule and refine the scope of the proceeding as needed, consistent with the requirements of the Rules of Practice and Procedure.

4. This rulemaking is preliminarily determined to be ratesetting, as that term is defined in Rule 1.3(e) of the Commission's Rules of Practice and Procedure. It is preliminarily determined that evidentiary hearings are not needed in this proceeding. Any persons objecting to the preliminary determination that evidentiary hearings are not necessary shall state their objections in their Prehearing Conference Statements.

5. A Prehearing Conference is set for April 29, 2014 at the Commission Courtroom, 505 Van Ness Ave., San Francisco, California 94102.

6. Parties may, and respondents must, file Prehearing Conference (PHC) Statements no later than April 10, 2014. Replies to PHC Statements are due no later than April 17, 2014. Respondents must, and parties may, provide preliminary responses and appropriate information to address each of the issues set forth in Section 3.2 of this Order Instituting Rulemaking. PHC Statements should also address the appropriate priority the Commission should place on resolving each of the issues set forth in the scope as well as the most appropriate

procedural mechanisms to resolve issues efficiently and expediently (via phases, etc.).

7. The Executive Director shall cause this Order Instituting Rulemaking (OIR) to be served on the service lists in the following proceedings:

- Rulemaking (R.) 11-03-012 (OIR to Address Utility Cost and Revenue Issues Associated with Greenhouse Gas (GHG) Emissions)
- R.12-03-014 (OIR to Integrate and Refine Procurement Policies and Consider Long-Term Procurement Plans)
- Application (A.) 13-08-002, et al. (Consolidated Proceeding on Electric Utilities' GHG Cost and Revenue Forecast Applications)
- A.13-08-026, et al. (Consolidated Proceeding on Electric Utilities' Long-Term GHG Outreach and Education Activities)
- A.13-09-015 (Pacific Gas and Electric Company (PG&E) GHG Natural Gas Cost Recovery Application)
- A.12-11-009 (PG&E 2014 General Rate Case (GRC))
- A.13-11-003 (Southern California Edison Company GRC)
- A.10-12-005/006 (Southern California Gas Company/San Diego Gas & Electric Company GRC)
- A.12-12-024 (Southwest Gas GRC)
- A.14-01-011 (West Coast Gas Application for GHG memorandum account)
- A.13-12-012 (PG&E Gas Transmission and Storage Proceeding)

8. Interested persons shall follow the directions in Section 7 of this Order Instituting Rulemaking to become a party or be placed on the official service list. An official service list for this proceeding shall be created by the Commission's process office and posted on the Commission's website (www.cpuc.ca.gov) as soon as practicable.

9. Parties served documents in this proceeding shall comply with Rule 1.10 of the Commission's Rule of Practice and Procedure regarding electronic mail service. Parties providing electronic mail service shall also provide a paper copy to the assigned Administrative Law Judge but not the assigned Commissioner.

10. Any party that expects to request intervenor compensation for its participation in this rulemaking shall file its notice of intent to claim intervenor compensation in accordance with Rule 17.1 of the Commission's Rules of Practice and Procedure, no later than 30 days after the first prehearing conference or pursuant to a date set forth in a later ruling which may be issued by the assigned Commissioner or assigned Administrative Law Judge.

11. *Ex parte* communications will be allowed in this ratesetting proceeding subject to the restrictions in Rule 8.3(c) Commission's Rules of Practice and Procedure and the reporting requirements in Rule 8.4.

This order is effective today.

Dated March 13, 2014, at San Francisco, California.

MICHAEL R. PEEVEY
President
MICHEL PETER FLORIO
CATHERINE J.K. SANDOVAL
CARLA J. PETERMAN
MICHAEL PICKER
Commissioners